

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RALPH LEPORACE	:	CIVIL ACTION
	:	
v.	:	
	:	
NEW YORK LIFE & ANNUITY, et al.	:	NO. 11-2000

**ORDER RE: DEFENDANTS' MOTION
TO DISMISS PURSUANT TO RULE 12(b)(6)**

AND NOW, this 21st day of December, 2011, upon careful consideration of Defendants's Motion to Dismiss (ECF No. 6), the briefs submitted by both parties, the arguments made during the hearing on October 27, 2011, and for the reasons discussed in the accompanying Memorandum Granting Defendants' Motion to Dismiss Claims for Disability Coverage Pursuant to Rule 12(b)(6), it is hereby ORDERED as follows:

1. Defendants' motion is GRANTED as to Plaintiff's claims for denial of past benefits.
2. Defendants shall use best efforts to make final determination on Plaintiff's pending claim by January 13, 2012. Plaintiff shall supply all relevant information.
3. If Defendants deny or have not decided Plaintiff's pending claim for benefits after May 2010, Plaintiff shall have twenty-one (21) days from the date Plaintiff receives notice and explanation of the denial, or January 13, 2012, whichever is first, to file a Second Amended Complaint.

BY THE COURT:

s/Michael M. Baylson

Michael M. Baylson, U.S.D.J.